

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/716,430	SUGAWARA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew B. Freistein	1626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 4/27/2006.
2. ☒ The allowed claim(s) is/are 45-49 and 70-73. (now 1-9)
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☒ Certified copies of the priority documents have been received in Application No. 09/926,346.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>11/20/2003</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                                 | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

### **DETAILED ACTION**

The amendment filed 4/27/2006 has been entered. Claims 1-25, 35-68 and 70-73 are currently pending. Claims 26-34 and 69 were cancelled. Claims 70-73 were added.

#### ***Information Disclosure Statement***

Applicant's information disclosure statement (IDS), filed on 11/20/2003, has been considered. Please refer to Applicant's copies of the 1449 submitted herewith, which indicates that the Examiner reviewed the Japanese documents.

#### ***Restriction Requirement***

The restriction requirement is withdrawn.

#### ***Claim Rejections - 35 USC § 102***

Claim 69 was rejected under 35 U.S.C. 102(b) as being anticipated by Mita et al, "Method for Preparation of Aziridine-2-Carboxylic Acid Salts", Japanese Kokai Patent Application No. Sho 57[1982]-146751. Claim 69 has been cancelled.

#### ***Claim Rejections - 35 USC § 103***

Claims 45-49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mita et al, "Method for Preparation of Aziridine-2-Carboxylic Acid Salts", Japanese Kokai Patent Application No. Sho 57[1982]-146751.

As a result of the amendments and response filed 4/27/2006 and the declaration submitted by inventor Akio Fuji under 37 CFR 1.132, the rejections have been overcome and are withdrawn.

***Claim Rejections - 35 USC § 112***

Claims 45-49 and 69 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As a result of the amendment filed 4/27/2006, the rejections of claims 45-49 are withdrawn. Claim 69 was cancelled.

***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

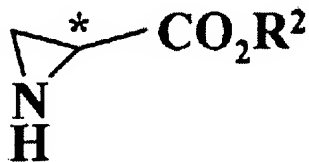
Authorization for this examiner's amendment was given during a telephone interview with Attorney Lee Wright on 5/11/2006.

This application has been amended as follows:

1. Cancel claims 1-25, 35-44 and 50-68.

***Reasons For Allowance***

The instant invention is drawn to a process for preparing optically active amino acid derivatives. The allowable claims are drawn to a process for the preparation of an optically active aziridine-2-carboxylic acid derivative represented by formula (2):



. The closest prior art is of record.


***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew B. Freistein whose telephone number is (571) 272-8515. The examiner can normally be reached Monday-Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph M<sup>c</sup>Kane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

Andrew B. Freistein  
Patent Examiner, AU 1626

  
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Joseph K. M<sup>c</sup>Kane  
Supervisory Patent Examiner, AU 1626  
Date: May 12, 2006